Government of
Saskatchewan

2006-2007
Annual Report

Saskatchewan
Justice

Law Reform
Commission of
Saskatchewan

Table of Contents

2008-05137/

Letters of Transmittal 3

Objectives 5

The Commissioners and Staff 6

Financial Information 6

Research Program and Activities 7

Management's Responsibility for the Financial Statements 10

Financial Statements 10

This annual report is also available in electronic format from the Saskatchewan Justice web site at **www.justice.gov.sk.ca**.

Letters of Transmittal

His Honour the Honourable Dr. Gordon L. Barnhart
Lieutenant Governor of Saskatchewan

May it Please Your Honour:

I have the honour of submitting the Annual Report of the Law Reform Commission of Saskatchewan for the period April 1, 2006 to March 31, 2007.

Respectfully submitted,

Frank Quennell, Q.C.
Minister of Justice and Attorney General

The Honourable Frank Quennell, Q.C.
Minister of Justice and Attorney General

Dear Sir:

I have the honour of submitting the Annual Report of the Law Reform Commission of Saskatchewan for the period April 1, 2006 to March 31, 2007.

Respectfully submitted,

Merrilee Rasmussen, Q.C.
Chair

The Law Reform Commission of Saskatchewan was established by *An Act to Establish a Law Reform Commission*, proclaimed in force in November 1973, and began functioning in February 1974.

The Commissioners are:

Ms Merrilee Rasmussen, Q.C., Chair

Mr. Kenneth P. R. Hodges, Q.C.

Ms Michaela Keet

Mr. Alan McIntyre

Ms Susan Amrud, Q.C.

Ms Sarah Buhler

Ms Carole Lavallee

Ms Susan Bates

Madam Justice G. R. Jackson

Mr. Michael Finley is Director of Research and can be contacted at:

410 26th Street West
Saskatoon, Saskatchewan S7L 0H9
Telephone: (306) 665-6428
E-mail: mjfinley@shaw.ca

The Chair can be contacted at:

2012 Athol Street
Regina, Saskatchewan S4T 3E5
Telephone: (306) 525-8911
Fax: (306) 525-8912
E-mail: rasmussen@sasktel.net

Objectives

The Law Reform Commission Act provides that:

"The Commission shall take and keep under review all the law of the province, including statute law, common law and judicial decisions, with a view to its systematic development and reform, including the codification, elimination of anomalies, repeal of obsolete and unnecessary enactments, reduction in the number of separate enactments and generally the simplification and modernization of the law."

Topics for the Commission's research program are brought before meetings of the Commission for consideration. These topics may originate from a recommendation of the Minister of Justice, the Commission and its staff, the judiciary, the legal profession, other professional organizations, or the public generally.

Once the research study in a particular project is completed, the matter is placed before the Commission for discussion and consideration. The Commission may decide to issue background papers or tentative proposals for circulation to the public in order to obtain criticism and comment prior to the preparation of a final report. This may entail public meetings, hearings and workshops. The Commission's recommendations are embodied in its final report to the Minister of Justice.

The Commission works closely with the Department of Justice in formulating research projects and facilitating adoption of its proposals. The Commission has also made an ongoing contribution on behalf of the province to the national work of the Uniform Law Conference of Canada. Commissioners and the Director of Research have served as members of the Conference for many years.

The Commission is a member of the Federation of Law Reform Agencies of Canada.

The Commissioners and Staff

The Law Reform Commission Act provides that the Minister of Justice shall appoint a Chair and not less than two other members of the Commission.

Ms Merrilee Rasmussen, Q.C., is Chair of the Commission.

The other Commissioners for 2006-07 are:

Kenneth P. R. Hodges, Q.C. (who was Chair from 1992-2000)

Professor Michaela Keet, of the College of Law, University of Saskatchewan

Mr. Alan McIntyre, a member of the Robertson Stromberg Pedersen LLP law firm, in Regina

Ms Susan Amrud, Q.C., of the Saskatchewan Department of Justice

Ms Sarah Buhler, a practising lawyer based in Saskatoon

Madam Justice G. R. Jackson of the Saskatchewan Court of Appeal

In 2003, two lay commissioners were appointed to assist the Commission in its work by providing a non-legal perspective on the issues before it. The current lay Commissioners are:

Ms Carole Lavallee, of the Cowessess First Nation

Ms Susan Bates, of Saskatoon

Previous members of the Commission are:

Professor Brian A. Grosman, Q.C. (Chair 1974-78)

Professor R. C. C. Cuming, Q.C. (Chair 1978-82)

Dr. D. A. Schmeiser, Q.C. (Chair 1982-87)

Mr. Dale Linn, Q.C. (Chair 1987-92)

Chief Justice E. D. Bayda (1974-76)

Mr. George J. D. Taylor, Q.C. (1974-82)

Madam Justice Marjorie A. Gerwing (1976-92)

Mr. Gordon J. Kuski, Q.C. (1982-92)

Madam Justice Gene Anne Smith (1992-98)

Ms Gailmarie Anderson (1992-2001)

Judge Dianne Morris (1992-2002)

Mr. Douglas Moen, Q.C. (2000-02)

Mr. Justice R. D. Laing (2003-06)

Mr. Michael Finley is Director of Research.

Financial Information

The Law Reform Commission is financed by the Province of Saskatchewan and the Law Foundation of Saskatchewan, and receives annual matching grants of $60,000 from each.

Commissioners, other than the judicial and provincial government representatives, receive honoraria from the Law Reform Commission of Saskatchewan based on the Order-in-Council by which they are appointed. The Chair receives $235 per day when engaged in work of the Commission and Commissioners receive $155 per day. The Director of Research is employed on a contractual basis at the rate of $70,000 per annum. Effective October 1, 2004, the Commission determined that the Chair should be engaged for the purpose of providing professional services, as are required, in addition to her duties as Chair of the Commission, in order to enhance the Commission's ability to produce and disseminate its reports and to liaise with individuals and organizations that are interested in the work of law reform. The Chair received a stipend of $10,000 for the period October 1, 2005 to September 30, 2006, and $12,000 for October 1, 2006 to September 30, 2007.

Research Program and Activities

Inventory of Law Reform Issues

The Commission has compiled an inventory of law reform issues in Saskatchewan. The inventory process was designed to identify emerging trends in law and society, as well as more discrete topics for law reform. Consultation with interested groups, individuals, and organizations focused on identification of issues and challenges, grouped about eight major themes:

- Democracy
- Aboriginal Peoples
- Human Rights
- Families and Children
- Vulnerable Adults
- Communities, Health and the Environment
- Administrative Law and Procedure
- Technical Legal Issues

The inventory serves as a basis for the future work of the Commission. The Commission is also hopeful that it will assist legislators, researchers and others interested in law reform to identify emerging needs of the justice system in Saskatchewan.

Implementation of Recent Projects

The Department of Justice is currently preparing a new *Trustees Act* and a new *Evidence Act,* based on recommendations made by the Commission in its reports *Proposals for Reform of the Trustees Act* (2002) and *Research Paper: The Saskatchewan Evidence Act* (2004).

Citation of Commission Reports by the Courts

Commission reports and other publications continue to be frequently referred to in decisions of the courts in Saskatchewan and elsewhere in Canada and the Commonwealth. Most recently, the Commission's *Proposals Relating to Perpetuities and Accumulations* was cited by the British Columbia Supreme Court in *Mott Estate v. Shaver* [2007] BCJ no.59.

A recent search of reported Canadian decisions found that the Commission's work has been referred to in 47 reported decisions, including 36 Saskatchewan decisions and three decisions of the Supreme Court of Canada. Commission publications on *The Personal Property Security Act,* limitation of actions, and the status of English statute law in Saskatchewan are the most frequently cited.

Current Research Program

Aboriginal Peoples

The Law Reform Commission of Saskatchewan has an interest in exploring the issues of Aboriginal self-government because of the significant Aboriginal population in this province and the need to find positive ways in which the Aboriginal and non-Aboriginal communities of Saskatchewan can live together harmoniously. The Chair of the Commission, Merrilee Rasmussen, Q.C., presented a paper, *The Role of the Uniform Law Conference in relation to Aboriginal Laws,* to the Uniform Law Conference of Canada at its meeting in Yellowknife in 2002. Following up, the Chair presented a paper to the Conference in August 2006, looking specifically at the role of the Conference in extending its Commercial Law Strategy to the Aboriginal jurisdictional context.

The Law Reform Commission of Saskatchewan has also completed a joint project with the Law Commission of Canada in relation to the issue of Aboriginal self-government in Canada. The project was a theoretical paper developed by John Whyte, Q.C., a senior fellow of the Saskatchewan Institute of Public Policy and former Deputy Minister of Justice for Saskatchewan.

The Commission continues to work with the Saskatchewan Institute for Public Policy to investigate issues relating to Aboriginal self-government in a broad social and political context. Ian Peach, Director of the Institute, and the Chair of the Commission prepared a joint paper which was presented at a conference called "First Nations, First Thoughts" on May 5 and 6, 2005, at the Institute for Canadian Studies, University of Edinburgh.

The paper provides an analysis of the innovative provisions of the Saskatchewan Treaty Governance negotiations between Canada, Saskatchewan and First Nations that made it possible to consider a plan for a province-wide self-government framework. The key provisions were those that created a context for recognition of First Nations' own constitutions and membership codes, and, most importantly, a relationship of laws regime that would recognize that First Nations laws could, in appropriate circumstances, displace federal and provincial laws.

Using this paper as a base, the Chair presented a further paper to the "Moving towards Justice" Conference hosted by the Saskatchewan Institute of Public Policy in 2006, titled, *Honouring the Treaty Acknowledgement of First Nation Self-Government: Achieving Justice Through Self-Determination.*

Human Rights

Handbook of Privacy Law and Legislation in Saskatchewan: The Commission is working together with the Saskatchewan Information and Privacy Commissioner to develop a handbook of privacy law from a Saskatchewan perspective.

Vulnerable Adults

Powers of Attorney: At the initiative of the Law Reform Commission of Saskatchewan, representatives of law reform agencies in British Columbia, Alberta, Saskatchewan, and Manitoba have met to discuss joint projects. The first such joint project was initiated in 2003 in relation to enduring powers of attorney and, specifically, facilitating recognition of the enduring power of attorney document, clarifying the duties of attorneys, and issues for persons interacting with attorneys. A joint consultation paper was approved by all western law reform agencies in 2004, and consultations in the four jurisdictions have now been completed. The four jurisdictions will produce a final report in 2007.

Older Adults and the Law: Saskatchewan has a proportionally larger population of senior citizens than any other province in Canada. The Commission has identified legal issues affecting older citizens as a priority for future research. The British Columbia Law Institute (BCLI) has created an Institute for Elder Law Studies. The work of the BCLI continues to be an extremely useful foundation for the Commission as it investigates elder law topics. In October 2006, Michael Finley, the Commission's Director of Research, presented a paper, *Financial Issues of Elders: Assessing the Approach of Law Reform,* to the Second Annual Conference on Elder Law sponsored by the BCLI.

In November 2006, the Commission issued two final reports on issues affecting older citizens: *Report on Family Financial Arrangements: Guarantees* and *Report on Reverse Mortgages.*

A consultation paper, *Corporate Fiduciary Services: Should corporate trustees and fiduciaries other than trust companies be permitted?* will be issued shortly.

Communities, Health and the Environment

Liability of Landowners to Recreational Users of Land: A final report, *Report on Landowners' Liability for Injury to Recreational Visitors,* was issued in November 2006. The report recommends limiting the liability of landowners for injuries to persons entering rural and wilderness land for recreational purposes.

Access to Light for Solar Power Generation: The Commission was asked by the Minister of the Environment to consider ways in which access to light for solar panels might be given legal protection by restricting development on neighbouring properties that would block sun light. The Commission has accepted the invitation, and a report will be issued in 2007.

Light Pollution: The Commission was asked by the Minister of the Environment to consider legal options to address light pollution, which is excessive use of artificial lighting that increases energy demand. The Commission has accepted the invitation, and a report will be issued in 2007.

Vaccination Law: The Commission will shortly issue a consultation paper on immunization and the law. This project responds to growing concern about emerging infectious diseases on one hand, and concern about the safety of childhood vaccination on the other. The paper discusses compensation for vaccine-related injury, compulsory vaccination, and issues of informed consent and refusal.

Administrative Law and Procedure

The Commission's administrative law project responds to a perceived need for clear and accessible legislative guidance for the wide range of decision-making by boards and tribunals operating under provincial law.

The first phase of the project focuses on the concept of a model procedural code to guide the work of administrative tribunals established under Saskatchewan legislation. A consultation paper was issued in May 2003. The paper was circulated to interested individuals and organizations and the Commission met with several groups and individuals as part of its consultation process. A final report and *Model Procedural Code* has been completed and printed. The model code has been distributed to administrative tribunals in the province. Additional copies are available from the Saskatchewan Queen's Printer.

Handbook of Professional Disciplinary Procedure: Draft for consultation – The Handbook is the second phase of the Commission's administrative law project and considers procedure before disciplinary committees and tribunals of self-governing professions regulated by Saskatchewan legislation. The Handbook is intended to be a practical guide to the procedure of investigation and discipline committees of professional organizations that have been given authority to discipline their members by statute. It is designed primarily for use by professional organizations that have not developed elaborate procedural rules unique to their needs. The Handbook is intended to make compliance with legal rules of procedure designed to protect the rights of parties to discipline proceeding less difficult for committee members who are not legally trained. Several professional associations have indicated an interest in the Commission's work in this regard. The Handbook has also been approved by the Commission in principle, and will be printed and released in 2007.

A third phase will look at appeals from administrative tribunals. Two components of this phase have been identified by the Commission; the first is penalties. These are penalties assessed in lieu of prosecution of regulatory offences. Administrative penalties are controversial because they are assessed by the Department responsible for regulation rather than by an independent tribunal.

The second component is a more general review of appeals for decisions of administrative tribunals and discipline committees to finds ways to ensure fairness and uniformity in the grounds for appeal and appellate procedure.

The Commission anticipates that consultation papers on these topics will be issued in 2007.

Technical Legal Issues

Wills and Estates: During the course of consultations with members of the Saskatchewan bar as part of the Commission's inventory of law reform issues, concerns about several matters involving the law of wills and administration of estates were identified. The Commission issued its *Consultation Paper: Revocation of Wills* in October 2004. A final report was issued in May 2006.

Title Insurance: The Commission has embarked upon a joint project with the Manitoba Law Reform Commission on the issue of title insurance in a Torrens system of land title registration. A joint research paper was prepared to form the basis of consultations in the two jurisdictions. Consultations occurred in 2005-06. A joint report was issued in March 2007.

Fraudulent Conveyances and Preferences: The Commission is working with the Uniform Law Conference of Canada and its Commercial Law Strategy on a project to revise the law on Fraudulent Conveyances and Preferences. At present, this area of the law is principally governed by the *Fraudulent Conveyances, 1570*, a part of the English law received in Saskatchewan when the Northwest Territories, and later the province, were created.

A complete list of all of the Commission's reports can be found on the Commission's web site at **www.lawreformcommission.sk.ca**.

Management's Responsibility for the Financial Statements

Management is responsible for the integrity of the financial information reported by the Law Reform Commission of Saskatchewan. Fulfilling this responsibility requires the preparation and presentation of financial statements and other financial information, according to the recommendations of the Public Sector Accounting Board. These recommendations are consistently applied, with any exceptions specifically described in the financial statements.

The accounting systems used by the Commission include an appropriate system of internal controls to provide reasonable assurance that:

- transactions are authorized;
- the Commission's assets are properly kept and financial reports are properly monitored to ensure reliable information is provided for preparation of financial statements and other information; and
- the accounts are properly kept and financial reports are properly monitored to ensure reliable information is provided for preparation of financial statements and other financial information.

To ensure management meets its responsibilities for financial reporting and internal control, the members of the Law Reform Commission of Saskatchewan discuss audit and reporting matters with representatives of management at regular meetings. The members of the Commission have also reviewed the financial statements with representatives of management.

The Provincial Auditor of Saskatchewan has audited the Law Reform Commission of Saskatchewan's statement of financial position as at March 31, 2007, and the related statements of operations and changes in net assets and cash flows for the year then ended. The Provincial Auditor's responsibility is to express an opinion on the fairness of management's financial statements. The Auditor's Report outlines the scope of the audit and the Provincial Auditor's opinion.

Merrilee Rasmussen, Q.C.
Chair
Regina, Saskatchewan
June 2007

Financial Statements

The financial statements on the following pages provide an account of the financial activities of the Law Reform Commission of Saskatchewan for the year ended March 31, 2007.

LAW REFORM COMMISSION OF SASKATCHEWAN

FINANCIAL STATEMENTS

For the Year Ended March 31, 2007

Provincial Auditor Saskatchewan

1500 Chateau Tower
1920 Broad Street
Regina, Saskatchewan
S4P 3V2

Phone: (306) 787-6398
Fax: (306) 787-6383
Web site: www.auditor.sk.ca
Internet E-mail: info@auditor.sk.ca

SASKATCHEWAN

AUDITOR'S REPORT

To the Members of the Legislative Assembly of Saskatchewan

I have audited the statement of financial position of the Law Reform Commission of Saskatchewan as at March 31, 2007 and the statements of changes in net assets, operations, and cash flows for the year then ended. The Commission's management is responsible for preparing these financial statements for Treasury Board's approval. My responsibility is to express an opinion on these financial statements based on my audit.

I conducted my audit in accordance with Canadian generally accepted auditing standards. Those standards require that I plan and perform an audit to obtain reasonable assurance whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation.

In my opinion, these financial statements present fairly, in all material respects, the financial position of the Commission as at March 31, 2007 and the results of its operations and its cash flows for the year then ended in accordance with Canadian generally accepted accounting principles.

Regina, Saskatchewan
July 17, 2007

Fred Wendel, CMA, CA
Provincial Auditor

Statement 1

LAW REFORM COMMISSION OF SASKATCHEWAN
STATEMENT OF FINANCIAL POSITION
As at March 31

	2007	2006
ASSETS		
Current		
Cash	$ 20,394	$ 8,595
Short-term investments (Note 3)	100,000	100,000
Accounts receivable	16,217	15,805
Prepaid expense	2,648	2,719
Total Assets	$ 139,259	$ 127,119
LIABILITIES AND NET ASSETS		
Current Liabilities		
Accounts payable	$ 5,516	$ 5,072
Net Assets		
Unrestricted net assets	133,743	122,047
Total Net Assets (Statement 2)	133,743	122,047
Total Liabilities and Net Assets	$ 139,259	$ 127,119

(See accompanying notes to the financial statements)

LAW REFORM COMMISSION OF SASKATCHEWAN
STATEMENT OF OPERATIONS AND CHANGES IN NET ASSETS
Year Ended March 31

	Budget	2007	2006
Revenue			
Saskatchewan Department of Justice grant	$ 60,000	$ 60,000	$ 60,000
Law Foundation grant (Note 5)	60,000	60,000	60,000
Interest	---	1,252	827
	120,000	121,252	120,827
Expenses			
Salaries and employee benefits	76,000	73,129	75,066
Professional services	10,000	11,000	10,000
Commissioners' honoraria	10,300	9,133	11,640
Conference and travel expense	12,730	9,852	13,888
Office supplies and services	13,800	3,589	2,700
Professional fees	2,700	1,856	2,214
Commercial law strategy	20,000	---	---
Amortization	---	---	516
Miscellaneous	---	997	870
	145,530	109,556	116,894
Excess of revenues over expenses	$ (25,530)	11,696	3,933
Net assets, beginning of year		122,047	118,114
Net assets, end of year		$ 133,743	$ 112,047

(See accompanying notes to the financial statements)

LAW REFORM COMMISSION OF SASKATCHEWAN
STATEMENT OF CASH FLOWS
Year Ended March 31

	2007	2006
Cash flows from (used in) operating activities		
Saskatchewan Department of Justice grant	$ 60,000	$ 60,000
Law Foundation grant	60,000	60,000
Interest received	1,022	22
Cash paid to suppliers and employees	(109,223)	(119,887)
Cash provided by operating activities	11,799	135
Cash flows from (used in) investing activities		
Purchase of short-term investments	(100,000)	(100,000)
Proceeds from disposal and redemption of investments	100,000	---
Cash used in investing activities	---	(100,000)
Increase (decrease) in cash	11,799	(99,865)
Cash, beginning of year	8,595	108,460
Cash, end of year	$ 20,394	$ 8,595

(See accompanying notes to the financial statements)

LAW REFORM COMMISSION OF SASKATCHEWAN
NOTES TO THE FINANCIAL STATEMENTS
March 31, 2007

1. Incorporation

The Law Reform Commission Act was amended effective November 6, 1987. At that date the Commission became a body corporate and continued the operations of the Law Reform Commission of Saskatchewan.

The purpose of the Commission is to review all the laws of the Province with a view to its systematic development and reform and generally the simplification and modernization of the law.

2. Significant Accounting Policies

These financial statements have been prepared in accordance with Canadian generally accepted accounting principles and include the following significant accounting policies:

a) Revenue Recognition
The Commission follows the deferral method of accounting and recognizes unrestricted contributions as revenue when received or receivable.

b) Use of estimates
These statements are prepared in accordance with Canadian generally accepted accounting principles. These principles require management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date the financial statements and the reported amounts of revenue and expenses during the period. Actual results could differ from those estimates. Differences are reflected in current operations when identified.

3. Short-term Investments

Short-term investments include term deposits with a maturity greater than 90 days, but less than one year. At year end, the short-term investments have an effective interest rate of 3.3% (2006 – 1.3%). Short-term investments are recorded at cost which approximates fair value.

4. Related Party Transactions

Included in these financial statements are transactions with various Saskatchewan Crown corporations, departments, agencies, boards and commissions related to the Law Reform Commission of Saskatchewan by virtue of common control or significant influence by the Government of Saskatchewan.

The Law Reform Commission purchased office supplies and services from Rasmussen Management Consulting Ltd., which is owned by the chairperson of the Commission.

The Law Reform Commission contracted the chairperson of the Commission to provide professional services, in addition to her duties as chairperson, for the year from October 1, 2005 to September 30, 2006 for $10,000 per annum and for the year from October 1, 2006 to September 30, 2007 for $12,000 per annum.

The following table summarizes the Commission's related party transactions that are in the normal course of operations. These transactions are recorded at the standard rates charged by these parties and are settled at normal trade terms.

	2007	2006
Operating revenues - Grant from Department of Justice	$ 60,000	$ 60,000
Operating expenditures		
Rasmussen, Merrilee, Q.C. - professional services	11,000	10,000
Olive Waller Zinkan & Waller - office supplies and services	---	1,829
Rasmussen Management Consulting Ltd. - office supplies and services	501	935
Queen's Printer - printing	350	88
Workers' Compensation Board - salaries and benefits	219	138
University of Saskatchewan - miscellaneous	97	130
Accounts payable Rasmussen, Merrilee, Q.C.	3,000	2,500

In addition, the Commission pays Provincial Sales Tax to the Saskatchewan Department of Finance on all its taxable purchases. Taxes paid are recorded as a part of the cost of those purchases.

5. Law Foundation Grant

The Law Reform Commission received a grant in 2006/07 from the Law Foundation of Saskatchewan for $60,000 (2005/06 – $60,000).

6. Financial Instruments

Financial instruments consist of short-term investments, accounts receivable and accounts payable. There are no significant terms and conditions related to the financial instruments that may affect the amount, timing and certainty of future cash flows. The fair value of these instruments approximates carrying value due to their immediate or short-term maturity.